

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re: STEPHEN F BANHIDY) Case No. 17-14287-jps
 HEATHER M BANHIDY) Chapter 13 Proceedings
Debtor(s)) Judge Jessica E. Price Smith

**TRUSTEE'S MOTION TO DISMISS CASE
FOR FAILURE TO FUND**

Now comes LAUREN A. HELBLING, the duly appointed and qualified Standing Chapter 13 Trustee ("Trustee") herein, and hereby moves this Honorable Court to dismiss the case of the Debtor pursuant to Section 1307 of the Bankruptcy Code for failure to fund. In support of her motion, the Trustee makes the following representations to the Court:

1. The Debtor(s) filed a petition under Chapter 13 of Title 11, U.S.C. on **July 21, 2017**. The plan of the Debtor was confirmed on **November 2, 2017**. The current plan of the Debtor(s) provides for payments to the Trustee of **\$2335.40 monthly**.
2. The Trustee has reviewed the Trustee's records and states that as of the date of this motion, the Debtor(s) is delinquent **\$4948.79**.
3. The Trustee will not withdraw this motion unless a response is filed and the Debtor(s) submits to the Trustee **\$4948.79** along with the additional payment of **\$2335.40 per month** due by the hearing date set by the Court or the Trustee.
4. Section 1307(c)(1) of the Bankruptcy Code states that unreasonable delay by the debtor that is prejudicial to creditors is grounds for dismissal of the case of the debtor. In addition, Section 1307(c)(6) of the Bankruptcy Code states that material default by the debtor with respect to the terms of a confirmed plan is grounds for dismissal of the case of the debtor. The Trustee believes that the failure of the Debtor(s) to maintain payments to the Trustee has unreasonably delayed the administration of the case of the Debtor(s), and ultimately delayed the potential repayment of the creditors of the estate of the Debtor(s). As a result, cause exists to dismiss the case of the Debtor(s).

WHEREFORE, your Trustee, being a proper party in interest, moves this Honorable Court to grant this motion and dismiss the case of the debtor for the reasons cited.

/s/ Lauren A. Helbling

LAUREN A. HELBLING (#0038934)

Chapter 13 Trustee

200 Public Square, Suite 3860

Cleveland OH 44114-2321

Phone(216)621-4268

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Ch13trustee@ch13cleve.com

CERTIFICATE OF SERVICE

I certify that on July 09, 2019 true and correct copy of this Motion to Dismiss Case was served:

Via the Court's Electronic Case Filing System on these entities and individuals who are listed on the Court's Electronic Mail Notice List:

JAMES M MCCLAIN, on behalf Debtor(s) at mcclain2@windstream.net

And by regular U.S. mail, postage prepaid, on:

STEPHEN & HEATHER BANHIDY, Debtor(s), at 27226 COOK RD., OLMSTED TWP., OH 44138

/s/ Lauren A. Helbling

LAUREN A. HELBLING (#0038934)

Chapter 13 Trustee

200 Public Square, Suite 3860

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